THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 21329 of 1998

Dated: 16-08-2005

Between:

U. Satyanarayana S/o Narasimha Rao
District Scheduled Caste Service Coop.Society Ltd., (Engineering Wing),
S.C.Corporation, Visakhapatnam,
R/o Visakhapatnam.

..... PETITIONER

AND

1 The District Collector and Chairman, District Sheduled Caste Service Co-op.Society Ltd.,Visakhapatnam.
2 The Executive Engineer, Dist. S.C. Service Coop. Society Ltd., Visakhapatnam.
3 The Executive Director, Dist. S.C. Service Coop. Society Ltd., Visakhapatnam. **.....RESPONDENTS**

THE HONOURABLE SRI JUCTICE C.V.RAMULU

W.P.NO.21329 OF 1998

ORDER:

This writ petition is filed seeking a mandamus to declare that the petitioner is entitled and qualified to hold the post of Assistant Engineer in the District Scheduled Caste Service Cooperative Society, SC Corporation, Vishakapatnam and further to direct the respondents to continue the petitioner as Assistant Engineer in the existing and sanctioned post of Assistant Engineer in the first respondent organization.

It is the case of the petitioner that he has studied L.C.E (Licentiate in Civil Engineering) in the year 1985 and got enrolled himself in the Employment Exchange. Thereafter, he was appointed as Technical Work Inspector in the first respondent organization with effect from 1-2-1989 as NMR worker. The first respondent comes under the A.P.Scheduled Castes Corporation. The said Corporation is created for the development and improvement of Scheduled Caste community people. It undertakes various activities for improving the life standards of Scheduled Caste community people. The Engineering wing of the Corporation undertakes construction activity and maintenance of various structures which have been constructed for the betterment and improvement of the Scheduled Caste people. Further with effect from 1-10-1981, the petitioner was put on regular time scale of pay attached to the post of Technical Work Inspector. Since the date of appointment, the petitioner has been discharging duties to the utmost satisfaction of his superiors. The State Government (Social Welfare Department) has issued G.O.Ms.No.200 dated 12-9-1985 fixing the staff pattern of each division and each sub division of the Engineering wing in S.C.Corporation. In each district, there will be approximately one divisional office and two sub-divisional offices. In the sub-division, there are three sanctioned posts of Assistant Executive Engineers. In all it would be clear that in each district, six Assistant Executive Engineers will be working, 3 under each sub division. In Vishakapatnam Distrrict, there is only one sub division presently functioning, as far as another sub division is concerned, it is transferred to the Madanapalle of Chittoor District barring one Assistant Executive

Engineer who is being retained in Visakhapatnam district. Therefore, there are three sanctioned posts of sub-division in Vishakapatnam and one post of Assistant Executive Engineer of another sub division in Vishakapatnam District. As the matter stood thus, the petitioner was also further appointed/promoted as Assistant Engineer on a consolidated pay of Rs.3,900/- with effect from 22-6-1996. However, on a representation being made by the petitioner, he was put on regular time scale of Assistant Engineer also. Thereafter, the petitioner supervised in the capacity of Assistant Engineer the constructions work of S.C. Girls hostel building at K.Kotapadu, B.C. hostel building, Yatrinivas by M.V.P Colony at Vishakapatnam, check dams and irrigation wells at various remote villages for the benefit of S.C. community. As against the vacancies of Assistant Engineer sanctioned in Vishakapatnam district, the petitioner was the only Assistant Engineer working in the entire Vishakapatnam district. One Deputy Executive Engineer is brought from Vizianagaram district to discharge the duties as Assistant Engineer as well as Deputy Executive Engineer,(FAC). Since the period of extension of the petitioner as Assistant Engineer came to end on 22-6-1998, the respondents were contemplating to revert him back to the post of Technical Work Inspector. Therefore, he filed the present writ petition apprehending the reversion.

A detailed counter affidavit has been filed by the respondents denying the allegations made by the petitioner and also asserting that the petitioner was initially appointed as Technical Work Inspector on NMR basis by the Executive Engineer, Vishakapatnam and the petitioner joined duty on 1-2-1989. Subsequently, he was provided with time scale in the cadre of Technical Work Inspector with effect from 1-10-1991. It is also stated that the petitioner was appointed as Assistant Engineer keeping in view of the work load by the Collector and Chairman of District S.C.Society,Vishakapatnam on a monthly consolidated pay of Rs.3,900/- with effect from 22-6-1996. It is admitted in the counter that on representation made by the petitioner, he was also allotted time scale pay attached to the post of Assistant Engineer. However, it is stated that since no sufficient work load as such, the services of the petitioner as Assistant Engineer were terminated with effect from 22-6-1998 after completion of contract period. The petitioner cannot claim any regular appointment as Assistant Engineer.

I have given my earnest consideration to the respective submissions made by the

learned counsel on either side and perused the material placed on record.

At the outset, I am of the opinion that the reversion of the petitioner to the post of Technical Work Inspector is arbitrary and illegal. The assertion made by the petitioner that there are four posts of Assistant Engineer is not denied. It is also not denied that the petitioner was promoted and appointed as Assistant Engineer, when there was a work load available. For that, the petitioner put on regular time scale attached to the post of Assistant Engineer. Now, it is brought to my notice during the course of arguments that the petitioner was further promoted as Deputy Executive Engineer in respondent No.1 organization with effect from 11-6-2004. In the absence of any denial of existence of vacancies in the cadre of the Assistant Engineer, there was no necessity for the respondents to appoint the petitioner initially on contract basis and thereafter terminate his services as the period was over by 22-6-1996. Once the vacancies are available and the petitioner's assertion that he is the only person available for being appointed to the post of Assistant Engineer is not denied, the petitioner is entitled to continue as Assistant Engineer. Further, the petitioner has already been promoted as Deputy Executive Engineer during the pendency of writ petition. Therefore, the contention of the respondents that he was appointed only on contract basis and he has no right to claim regular appointment as Assistant Engineer is without any substance. Thus, the petitioner is entitled for appointment by promotion as Assistant Executive Engineer in the existing vacancies. The respondents shall consider and issue appropriate proceedings in this regard within a period of two months from the date of receipt a copy of this order. The writ petition is, accordingly, allowed. No order as to costs.

C.V.RAMULU,J

16-08-2005

Stp